

REMARKS

Applicants wish to thank Examiner Raymond B. Persino for the courtesy of the telephonic conversations on March 22, 2005, and April 1, 2005, with Applicants' representative James J. Bindseil. These conversations were helpful in understanding the Examiner's position and in identifying subject matter that defines over the cited references.

Claims 1-35 are pending in the present application. In the above amendments, claims 1, 3-4, 8, 13-14, 17-24, 26-30 and 34-35 have been amended, claims 2, 5, 15-16 and 25 have been cancelled, and new claims 36-49 have been added. The independent claims have been amended to rearrange the recited features to enable better enforcement of the claims. The dependent claims have been amended to properly read from the amended independent claims. Further, dependent claim 4 has been amended, as supported in the specification,¹ to recite additional features of the server. Applicants have added claims 36-49 to provide a scope of protection to which they believe they are entitled. All of these amendments and new claims are fully supported throughout the specification, and no new matter has been added. Therefore, after entry of the above amendments, claims 1, 3-4, 6-14, 17-24 and 26-49 will be pending in this application.

Applicants believe that the present application is now in condition for allowance, for which prompt and favorable action is respectfully requested.

Rejection of claims 1-5, 10, 13-17, 22-26, 31 and 34-35 under 35 USC 103(a) as being obvious over US 6,223,291 to Puhl et al. in view of US 5,103,476 to Waite et al.

¹ See, e.g., Specification at paragraph 31.

The Applicants respectfully traverse the rejection of claims 1-5, 10, 13-17, 22-26, 31 and 34-35 under 35 USC § 103(a) as being obvious over US 6,223,291 to Puhl et al. ("Puhl") in view of US 5,103,476 to Waite et al. ("Waite"). These references, either individually or in combination, do not disclose or suggest the features recited by the claims.

As discussed in detail and agreed to by the Examiner during the above-referenced telephone conferences, referring to independent claims 1, 13, 14, 23, 24, 34 and 35, Puhl and Waite do not disclose or suggest a system or method for controlling software applications that involves, upon each attempted execution of a software application on a wireless device, a license request being sent from the wireless device and/or received by an application managing server over a wireless network, and where a license providing for the execution of the software application is transmitted across the wireless network and/or received by the wireless device.

In contrast, as noted by the Examiner in the Office Action, both Puhl and Waite check for a license on the device itself.² Puhl teaches away from the recited features by disclosing that upon boot up, the phone compares resident license certificates against resident software products to determine if the phone is allowed to operate the software product.³ Thus, Puhl does not disclose or suggest sending a license request to an application managing server across a wireless network upon each attempted execution of a resident software application, as recited by the claims. Similarly, Waite teaches away from the recited claim language because Waite discloses that a software application is not resident until after it has been downloaded along with a license.⁴ As such, in Waite there is no "resident" application to attempt to execute until after a license has already been received. Thus, Waite does not disclose or suggest sending a license request to an application managing server across a wireless network upon each attempted

² Office Action mailed January 25, 2005, p. 3, lines 3-9.

³ US Patent No. 6,223,291 to Puhl et al., col. 6, lines 5-15.

execution of a resident software application, as recited by the claims. Therefore, Puhl and Waite, in any combination, do not disclose or suggest the recited feature of sending/receiving a license request via a wireless network in response to each attempted execution of a software application resident on a wireless device, and correspondingly receiving/initiating sending of a license providing for execution of the resident software application on the wireless device.

Claims 4-5, 10, 15-17, 22, 25-26 and 31 depend from the above-referenced independent claims, and thus define over Puhl and Waite for the same reasons as discussed above. Further, each of these dependent claims recite additional features that provide a separate basis for defining each respective claim over the cited reference.

Thus, based on the above amendments and remarks, the Applicants respectfully request the Examiner to withdraw the rejection of claims 3, 5-8, 11-13, 15-19, 21-25, 28, 30, 32, 34-35 and 37-42 under 35 USC § 103(a) as being obvious over Puhl in view of Waite.

Rejection of claims 6-9, 18-21 and 27-30 under 35 USC 103(a) as being obvious over Puhl in view of Waite and further in view of Examiner's Official Notice

The Applicants respectfully traverse the rejection of claims 6-9, 18-21 and 27-30 under 35 USC § 103(a) as being obvious over Puhl in view of Waite and further in view of the Examiner's Official Notice. These references, either individually or in any combination, do not disclose or suggest the features recited by the claims.

As discussed in detail above, Puhl and Waite fail, individually and in any combination, as 35 USC § 103(a) references. The addition of the Examiner's Official Notice does not solve this deficiency.

⁴ US Patent No. 5,103,476 to Waite et al., col. 3, line 57 to col. 4, line 31.

Claims 6-9, 18-21 and 27-30 depend from the above-referenced independent claims, and thus they define over Puhl and Waite for the same reasons as discussed above. Namely, each of these claims recites the feature of sending/receiving a license request via a wireless network in response to each attempted execution of a software application resident on a wireless device, which is not disclosed or suggested by any combination of Puhl and Waite. The Examiner's Official Notice deals with the expiration of the license, and thus also does not solve the deficiencies of Puhl and Waite. Thus, any combination of Puhl, Waite and the Examiner's Official Notice fails to disclose or suggest the recited features of sending/receiving a license request via a wireless network in response to each attempted execution of a software application resident on a wireless device, and correspondingly receiving/initiating sending of a license providing for execution of the resident software application on the wireless device.

Therefore, based on the above amendments and remarks, the Applicants respectfully request the Examiner to withdraw the rejection of claims 6-9, 18-21 and 27-30 under 35 USC § 103(a) as being obvious over Puhl in view of Waite and further in view of the Examiner's Official Notice.

Rejection of claims 11, 12, 32 and 33 under 35 USC 103(a) as being obvious over Puhl in view of Waite and further in view of Examiner's Official Notice

The Applicants respectfully traverse the rejection of claims 11, 12, 32 and 33 under 35 USC § 103(a) as being obvious over Puhl in view of Waite and further in view of the Examiner's Official Notice. These references, either individually or in any combination, do not disclose or suggest the features recited by the claims.

As discussed in detail above, Puhl and Waite fail, individually and in any combination, as 35 USC § 103(a) references. The addition of the Examiner's Notice does not solve this deficiency.

Claims 11, 12, 32 and 33 depend from the above-referenced independent claims, and thus they define over Puhl and Waite for the same reasons as discussed above. Namely, each of these claims recites the feature of sending/receiving a license request via a wireless network in response to each attempted execution of a software application resident on a wireless device, which is not disclosed or suggested by any combination of Puhl and Waite. The Examiner's Official Notice deals with the expiration of the license, and thus also does not solve the deficiencies of Puhl and Waite. Thus, any combination of Puhl, Waite and the Examiner's Official Notice fails to disclose or suggest the recited features of sending/receiving a license request via a wireless network in response to each attempted execution of a software application resident on a wireless device, and correspondingly receiving/initiating sending of a license providing for execution of the resident software application on the wireless device.

Therefore, based on the above amendments and remarks, the Applicants respectfully request the Examiner to withdraw the rejection of claims 11, 12, 32 and 33 under 35 USC § 103(a) as being obvious over Puhl in view of Waite and further in view of the Examiner's Official Notice.

New Claims 36-49

As mentioned above, new claims 36-49 have been added to provide a scope of protection to which they believe they are entitled. For example, claims 36-38, 42-44 incorporate selected features from some of the present claims, such as claim 1. Further, for example, claims 39-41

and 45-49 recite subject matter fully supported throughout the specification.⁵ Each of these claims define over the cited references for the same reasons discussed above. Thus, the Applicants respectfully request the Examiner to allow these claims.

⁵ See, e.g., Specification at paragraph 34; and paragraph 27, lines 8-12.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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